the administrative law judge states the reasons for his or her decision; and

(5) To a copy of the administrative law judge's decision and subsequent final decision by the Board, if any.

(c) *Filing and default.* A party named in a Special Counsel disciplinary action complaint may file an answer with the Clerk of the Board within 35 days of the date of service of the complaint. If a party fails to answer, the failure may constitute waiver of the right to contest the allegations in the complaint. Unanswered allegations may be considered admitted and may form the basis of the administrative law judge's decision.

(d) *Content.* An answer must contain a specific denial, admission, or explanation of each fact alleged in the complaint. If the respondent has no knowledge of a fact, he or she must say so. The respondent may include statements of fact and appropriate documentation to support each denial or defense. Allegations that are unanswered or admitted in the answer may be considered true.

§ 1201.125 Administrative law judge.

(a) An administrative law judge will hear a disciplinary action complaint brought by the Special Counsel.

(b) Except as provided in paragraph (c)(1) of this section, the administrative law judge will issue an initial decision on the complaint pursuant to 5 U.S.C. 557. The applicable provisions of §§ 1201.111, 1201.112, and 1201.113 of this part govern the issuance of initial decisions, the jurisdiction of the judge, and the finality of initial decisions. The initial decision will be subject to the procedures for a petition for review by the Board under subpart C of this part.

(c)(1) In a Special Counsel complaint seeking disciplinary action against a Federal or District of Columbia government employee for a violation of 5 U.S.C. 7323 or 7324, where the administrative law judge finds that the violation does not warrant removal, the administrative law judge will issue a recommended decision to the Board in accordance with 5 U.S.C. 557.

(2) The parties may file with the Clerk of the Board any exceptions they may have to the recommended decision of the administrative law judge. Those

exceptions must be filed within 35 days after the date of service of the recommended decision or, if the filing party shows that the recommended decision was received more than 5 days after the date of service, within 30 days after the date the filing party received the recommended decision.

(3) The parties may file replies to exceptions within 25 days after the date of service of the exceptions, as that date is determined by the certificate of service.

(4) No additional evidence will be accepted with a party's exceptions or with a reply to exceptions unless the party submitting it shows that the evidence was not readily available before the administrative law judge closed the record.

(5) The Board will consider the recommended decision of the administrative law judge, together with any exceptions and replies to exceptions filed by the parties, and will issue a final written decision.

[62 FR 48451, Sept. 16, 1997, as amended at 63 FR 42686, Aug. 11, 1998; 70 FR 30609, May 27, 2005]

§ 1201.126 Final decisions.

(a) In any action to discipline an employee, except as provided in paragraphs (b) or (c) of this section, the administrative law judge, or the Board on petition for review, may order a removal, a reduction in grade, a debarment (not to exceed five years), a suspension, a reprimand, or an assessment of civil penalty not to exceed $1,100. 5 U.S.C. 1215(a)(3).

(b) In any action in which the administrative law judge, or the Board on petition for review, finds under 5 U.S.C. 1505 that a State or local government employee has violated the Hatch Political Activities Act and that the employee's removal is warranted, the administrative law judge, or the Board on petition for review, will issue a written decision notifying the employing agency and the employee that the employee must be removed and not reappointed within 18 months of the date of the decision. If the agency fails to remove the employee, or if it reappoints the